HIGH COURT OF CHHATTISGARH AT BILASPUR

(18)

M.A. 1335 of 2005

CORAM: Hon'ble Shri S.R. Nayak, CJ
& Hon'ble Shri Dilip Raosaheb Deshmukh, J.

Appellants
Claimants

: 1. Smt. Ishwari Nishad, aged about 24 years W/o Late Shri Kulpat Nishad.
: 2. Chintu Nishad aged about 1 years 6 month, S/o Late Shri Kulpat Nishad.
: 3. Ku. Sandhya Nishad, aged about 4 months, D/o Late Shri Kulpat Nishad.

[Appellant No.2 & 3 being minor on behalf of through his legal guardian mother the appellant No.1]

4. Smt. Biswantin Nishad aged about 47 years W/o Late Shri Gokul Nishad.

All R/o-Village - Bahesar, Post-Sondara, Police Station - Dharsiwa, Raipur, District-Raipur (C.G.)

Versus

Respondent
Non-claimants

: 1. Mehtab Khan S/o Tayab Khan, R/o - present R/o-M.G. Market, G.E. Road, Bhilai, District - Durg (C.G.)
: 2. Narendra Singh S/o Swarn Singh, R/o - M.G. Market, G.E. Road, Bhilai District-Durg (C.G.)
: 3. The Oriental Insurance Company Limited, through Divisional Office, Divisional Manager, Kutchery Chowk, Raipur, District-Raipur (C.G.)

Shri Shivendu Pandya, Counsel for the appellants.
Shri Prashant Jaiswal, Sr. Advocate with Shri Ali Asgar, counsel for the Insurance-Company.

ORAL ORDER

(Passed on 17th January, 2006)

The following oral order of the Court was passed by S.R.NAYAK, C.J.

1. In this appeal preferred by the widow and children of the deceased for more compensation, the only contention urged by the learned counsel for the appellant is that, in the facts and circumstances of the case and evidence on record, the Motor

Accidents Claims Tribunal (M.A.C.T.) ought to have applied multiplier 18 for assessing 'loss of dependency' having regard to the age of the deceased on the date of the accident. It was also incidentally contended that what is awarded under the head 'loss of estate' and 'loss of consortium' is very much on lower side and that the M.A.C.T. is not justified in not awarding any compensation to the minor children towards loss of 'love and affection'.

2. We find force in the submissions of the learned counsel for the appellant. The widow of deceased was examined in the case. In her deposition, she has stated that the deceased was 27 years of age on the date of the accident. This say of the widow is not seriously contested. The learned M.A.C.T. has also not stated any reason to disbelieve the version of the widow of the deceased. However, the M.A.C.T., without disclosing any reason, has opined that the age of the deceased might be more than 30 years and on that basis it has applied multiplier 17 for assessing 'loss of dependency'. What has been done by the learned M.A.C.T., in our considered opinion, has to be disapproved. We tend to take the age of the deceased as 27 years, as stated by his widow and if we take the age of the deceased as 27 years, the appropriate multiplier to be applied for assessing 'loss of dependency' would be multiplier 18 and if we apply multiplier 18, the total loss of dependency would come to Rs.2,16,000/- as against Rs.2,04,000/- awarded by the M.A.C.T.

3. We have repeatedly held and reiterated that even the compensation to be awarded under the conventional heads should reflect the time and place of the accident and the steep fall in the money value in recent years and it cannot be static for all the times. In that view of the matter, what has been awarded by the learned M.A.C.T. towards 'loss of estate' and 'loss of consortium' to the widow is very much on lower side. The deceased left behind him the minor children. The M.A.C.T. ought to have awarded reasonable

compensation towards 'loss of love and affection'. Therefore, we award a sum of Rs.20,000/- towards 'loss of estate', Rs.20,000/- towards 'loss of consortium' to the widow, Rs.20,000/- towards 'loss of love and affection' to the appellants-minor children and Rs.2,000/- towards funeral expenses.

4. In the result and for the foregoing reasons, we allow the appeal in part and in substitution of the impugned award, we award total compensation of Rs.2,78,000/- under the following heads:

(i)	Loss of Consortium	:	Rs.20,000/-
(ii)	Loss of Estate	:	Rs.20,000/-
(iii)	Loss of Love & Affection	:	Rs.20,000/-
(iv)	Funeral expenses	:	Rs. 2,000/-
(v)	Loss of Dependency	:	Rs.2,16,000/-
	Total	:	Rs.2,78,000/-

with interest at 7% per annum from the date of claim petition till payment.

5. The Insurance-Company shall deposit the balance compensation within 6 weeks from today. On such deposit, the M.A.C.T. shall invest/disburse the compensation money in the same proportions, if any, specified by it in the impugned award.

6. The parties shall bear their respective costs in this appeal.

Sd/-
Chief Justice

Sd/-
DILIP RAOSAHEB DESHMUKH
Judge

Anjani